

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SECOND APPEAL No 8 of 1981

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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HEIRS OF KADARMIYA DADAMIYA

Versus

HEIRS OF NANAMIYA DADAMIYA  
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Appearance:

SERVICE ? for Petitioners  
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CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 17/02/2000

ORAL JUDGEMENT

1. Being aggrieved and dissatisfied with the judgment and decree, dated 20.12.1979 passed by the District Judge, Junagadh in Regular Civil Appeal No.154/77 filed by the original plaintiff-appellant wherein the Ld.District Judge was pleased to allow the appeal and decreed the suit of the plaintiff the original

defendants have filed the present second appeal. Notice was issued by this court on 23.2.1981.

2. The matter came before this court for hearing today. Mr.Akhil Qureshi, Ld.Advocate for appellant appeared and Mr.N.D.Nanavaty, Ld.Sr.Advocate along with Mr.A.H.Desai, Ld.Advocate for respondent appeared for respondent.

3. The facts giving rise to the present appeal are that the plaintiff sued for specific performance of a registered agreement for execution of a sale deed dated 20.2.71 in respect of the suit property and for costs of the suit. Regular Civil Suit No.110/74 was filed by the original plaintiffs was dismissed with costs.

4. Being aggrieved and dissatisfied with the said judgment and decree the plaintiff filed appeal being Regular Civil Appeal No.154/77 before the District Court, Junagadh and the Ld.District Judge, Junagadh, as stated above, by his judgment and decree, dated 20.12.1979 was pleased to allow the said appeal.

5. The original defendants have filed the aforesaid Second Appeal and raised following question of law:

"Whether by attesting Exh.48 the right to purchase the property vide Exh.29 could be said to have been waived by the deceased Nanamiya Dadamiya?"

6. However, without entering into merits of the matter, the learned advocates appearing for parties submitted that the dispute is between father and two sons and as the father has died now the dispute is between two brothers and the parties are very old and it is difficult for them to travel from Junagadh to Ahmedabad and they have also submitted that there is a permanent conciliation board at Jungadh comprising Ld.District Judge and other judicial officers. Without entering into the merits of the Second Appeal and without expressing any opinion in the matter, I direct the parties to approach the said Conciliation Board to resolve their grievance raised in this second appeal. Office is directed to send the matter to the Conciliation Board at Junagadh and the Conciliation Board is required to decide the dispute between two brothers after going through the record of the case and after hearing the parties. However, if there is any difficulty, liberty is granted to parties to revive this second appeal. Second Appeal

stands disposed of subject to aforesaid directions. No  
order as to costs.

17.2.2000 (K.M.MEHTA,J)